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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,025	11/15/2001	Osamu Sekihata	FUJZ 19.163	4988
26304	7590	03/31/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			WONG, WARNER	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	
			2616	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/002,025	<b>Applicant(s)</b> SEKIHATA ET AL.	
	<b>Examiner</b> Wamer Wong	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (US 5,905,730).

**Regarding claims 1 and 5**, Yang describes a method/apparatus comprising:

[a buffer] holding a packet (fig. 1, 10, 20, 30 & col. 5, lines 31-32, session queues holding incoming packets );

[a counter] counting the packet length (col. 2, lines 27-30, where the scheduler inherently has a counter to determine/count the packet length);

[a read controller] controlling a read start time of the held packet, according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length (col. 2, lines 26-32 & , col. 3, lines 21-27, where the scheduler (read controller) selects/controls when a packet is transmitted according to its required rate/throughput (setting bandwidth that is a restricted bandwidth), the proportion of its rate to the available (line) bandwidth, and the packet length).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang in view of Frazier (US 5,784,559).

**Regarding claims 2 and 6**, Yang lacks describing a step/buffer monitor for notifying a stop in transmission when the number of packets residing in buffer exceeds a (first) value and performing a flow control to notify a restart of packet transmission to the packet transmitting side when the number of packets residing in the buffer assumes equal to or less than a second threshold value.

Frazier describes a step/buffer monitor for notifying a stop in transmission when the number of packets residing in buffer exceeds a (first) value and performing a flow control to notify a restart of packet transmission to the packet transmitting side when the number of packets residing in the buffer assumes equal to or less than a second threshold value (fig. 2 & col. 6, lines 11-26, where at the receiving station the reconciliation sublayer 40' (step/buffer monitor) transmits a XON (stop in transmission) when congestion is imminent (first value) and transmits a XOFF (restart in transmission) when it permits accepting additional data in a state when congestion is over (second value), with congestion defined as when buffer/memories are full in col. 4, lines 47-56).

It would have been obvious to one with ordinary skill in the art at the time of invention by applicant to incorporate flow control signals of Yang into the method/apparatus of Yang.

The motivation for combining the teachings is that by providing a flow control mechanism, data may be moved across a network which contains finite resources (Frazier, col. 4, lines 43-47).

**Regarding claims 3 and 7**, Yang and Frazier described all limitations set forth in claims 2 & 6 above respectively. Frazier further describes that [buffer monitor performing] the flow control only to a subscriber side (Frazier, fig. 2, where the XON/XOFF (flow control) is only transmitted towards the transmitter 10 (subscriber side));

**Regarding claims 4 and 8**, Frazier further describes [a bandwidth control system where] the method/apparatus is performed between the MAC layer process/controller and a physical layer process/controller (Frazier, fig. 2, where the reconciliation layer 40' (method/apparatus) performing flow control is between the MAC layer 50B' (process/controller) and the physical layer 30' (process/controller)).

**Regarding claim 9**, Frazier further describes that an interface with each layer controller comprises a standard interface (col. 5, lines 15-17, where the interface between all the lower layers in fig. 2 are compatible to IEEE802 standards).

**Regarding claim 10**, Yang further describes that the packet has a variable length (col. 2, lines 26-30, where each packet inherently has variable length as designated by the its length).

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***Response to Arguments***

5. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Warner Wong whose telephone number is 571-272-8197. The examiner can normally be reached on 5:30AM - 2:00PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Warner Wong  
Examiner  
Art Unit 2616

WW



RICKY Q. NGO  
SUPERVISORY PATENT EXAMINER